

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4333 of 1993

TO

SPECIAL CIVIL APPLICATION No 4338 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

HARIJAN ISHWARBHAI JAVERBHAI

Versus

STATE OF GUJARAT

Appearance:

None present for Petitioner

MR HL JANI for Respondent No. 1

MR RA PATEL for Respondent No. 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 04/03/97

ORAL JUDGEMENT

1. The matters were called out for hearing in the first round then in second round in first sitting and in third round in second sitting, but none put appearance on

behalf of the petitioners. Perused the Special Civil Applications and heard learned counsel for the respondents.

2. The reliefs prayed for in these Special Civil Applications are of similar nature. The petitioner in Sp. C.A. No.4333/93 has prayed for the following reliefs:

[A] to command the respondents to regularise the services of the petitioner in the grade of class IV employee with the pay scale of 190-350 with all the allowances and consequential benefits from 13-01-90.

[B] Pending the hearing and final disposal of this petition to restrain the Respondent No.2 from terminating the services of the petitioner at the present post.

[C] Grant such other and further relief as may be deemed just and proper.

[D] award the costs of this petition.

3. These Special Civil Applications have been filed by the petitioners before this Court on 28th April, 1993. These petitions have come up for admission before this Court on 29th April, 1993, and order passed by this Court reads as under:

Notice returnable on June 21, 1993. The learned counsel for the petitioner in each case prays that interim relief may be granted against the termination of the service. Mr. R.A. Patel appears on Caveat on behalf of respondent No.2, Ankлав Nagar Panchayat and states that the services of the petitioners came to be terminated by the end of February, 1993. The learned counsel for the petitioner states that till 3rd of March, 1993, the petitioners had actually worked and thereafter they were not permitted to sign the Muster roll though they were ready and willing to work. In the facts and circumstances, therefore, no interim relief can be granted at this stage. Mr. R.A. Patel waives service of notice on behalf of Respondent No.2.

4. From the order dated 29th April, 1993, it is clear that the services of the petitioners were terminated by the end of February, 1993. The counsel for the petitioners stated that till 3rd March, 1993 the

petitioners had actually worked and thereafter they were not permitted to sign the Muster roll though they were ready and willing to work. So from the aforesaid statement of the counsel for the petitioners it is clear that the services of the petitioners were terminated from 3rd March, 1993. The services of the petitioners have been terminated from 3rd March, 1993, but the petitioners have not disclosed this fact before this Court. On the contrary, in the Special Civil Application, the petitioners have given out that they are continuing in service and the respondent No.2 is trying to terminate their services. In para No.3.2, the petitioners have stated that, "on 4-3-1993, the President called upon individually the petitioners and has threatened to terminate their services if they will insist for the regularisation and therefore, the petitioners have reasonable apprehension of being terminated without following due procedure of law and since that day though the petitioners remained present on work, were further not permitted to mark their presence in the attendance register." These petitions have been filed on 28th April, 1993 i.e. after one month and 26 days of the termination of the services of the petitioners, and they have made such an averment. The termination of the services have not been challenged by the petitioners in these Special Civil Applications.

5. In view of the fact that the services of the petitioners have been terminated admittedly on 3rd March, 1993, and the termination has not been challenged in these Special Civil Applications, the relief for regularisation of their services cannot be granted. The prayer [B] which has been made by the petitioners also cannot be granted because their services were terminated much before the filing of these Special Civil Applications. Otherwise also, these writ petitions deserve to be dismissed only on the ground of concealment of very material fact by the petitioners.

6. In the result, these Special Civil Applications fail and the same are dismissed. Rule discharged. Interim relief, if any, granted by this Court stands vacated. No order as to costs.

zgs/-